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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,360	01/27/2004	David Allen Moore	200310476-1	2907
45416	7590	05/12/2005	EXAMINER	
LIFESCAN/NUTTER MCCLENNEN & FISH LLP			RAYMOND, EDWARD	
155 SEAPORT BOULEVARD			ART UNIT	
BOSTON, MA 02210-2604			PAPER NUMBER	
			2857	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/766,360

Applicant(s)

MOORE, DAVID ALLEN

Examiner

Edward Raymond

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 December 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 11-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 11-29 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>20050502</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20040127</u> . | 6) <input type="checkbox"/> Other: _____   |

## DETAILED ACTION

### *Election/Restrictions*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. **Claims 1-10**, drawn to a method of collecting temperature data, classified in class 702, subclass 188.
  - II. **Claims 11-29**, drawn to a system for temperature data in a data center, classified in class 702, subclass 130.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the method of collecting temperature data in a facility has application in other environments besides a data center. The subcombination has separate utility such as in a climate control system.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

3. During a telephone conversation with Wendell Jones on May 2, 2005 a provisional election was made without traverse to prosecute the invention of Group I, **claims 1-10**. Affirmation of this election must be made by applicant in replying to this

Art Unit: 2857

Office action. **Claims 11-29** are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-10** are rejected under 35 U.S.C. 102(b) as being anticipated by Egidio.

Egidio teaches a method for collecting temperature data in a facility (Claim 1: see Figure 6A: Container 601-603: The Examiner notes the container comprise a facility) wherein the facility includes a plurality of systems comprising: coupling a plurality of sensors to at least one of the systems (Claim 1: see 2: Temperature Sensors 201); connecting each of the plurality of sensors to a central system (Claim 1: see Figure 6A: Monitoring System 613); and utilizing the central system to collect temperature data from each of the plurality of sensors (Claim 1: see Figure 7: Step 701).

Egidio teach a method wherein the facility comprises a data center (Claim 2: see Figure 6A: Web Interface 617) and each of the plurality of systems comprises a rack of computer systems (Claim 2: see Figure 6A: Web Interface 617 and LAN 611).

Egidio teach a method wherein coupling a plurality of sensors to at least one of the systems further comprises: connecting each of the plurality of sensors to the at least one of the systems via a flexible stalk (Claim 3: see Figure 3: Sensor 300).

Egidio teach a method wherein connecting each of the plurality of sensors to a central system further comprises: utilizing an electro-mechanical connector to connect each of the plurality of sensors to the central system (Claim 4: see Figure 6A: Multi-sensor probe 500).

Egidio teach a method wherein utilizing the central system to collect temperature data from each of the plurality of sensors further comprises: periodically querying the plurality of sensors to collect temperature data related to the at least one system; and creating an ambient temperature profile of the facility based on the temperature data (Claim 5: see Figure 7 and also paragraph 35: The Examiner notes that the step of monitoring is occurring at a predetermined frequency).

Egidio teach a method wherein the plurality of sensors comprises 8 sensors (Claim 6: see paragraph 32).

Egidio teach a method wherein the electro-mechanical connector comprises a connector board (Claim 7: see Figure 6A: Sensor 500 and Controller 607).

Egidio teach a method wherein the central system includes an embedded control and the embedded controller is utilized to periodically query the plurality of sensors and create an ambient temperature profile (Claim 8: see Controller 607 and Monitoring System 613).

Egidio teach a method wherein the ambient temperature profile comprises a 3-dimensional matrix view (Claim 10: see Figure 9: Display 911).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Egidio in view of U.S. Patent Application 2004/0160897 to Fowler et al.

Egidio teach all of the features of the claimed invention, except a method wherein the connector board includes at least one RJ-11 type connector. Fowler et al. teach at least one RJ-11 connector (Claim 9: see Table 1). It would have been obvious to the person having ordinary skill in the art at the time the invention was made to modify Egidio to use an RJ-11 connector, as taught by Fowler et al., because this would allow for connectivity to a network.

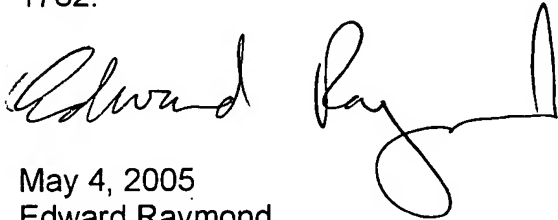
***Contact Information***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Raymond whose telephone number is 571-272-2221. The examiner can normally be reached on Monday through alternating Friday between 8:00 AM and 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 571-272-2216. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-2221 for regular communications and 571-272-1562 for After Final communications.

Art Unit: 2857

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A handwritten signature in black ink, appearing to read "Edward Raymond". The signature is fluid and cursive, with a large loop at the end of the last name.

May 4, 2005  
Edward Raymond  
Patent Examiner  
Art Unit 2857